



The Graphic Arts Coalition

Representing the Graphic Communications Industries

September 12, 2005

Air & Radiation Docket Information Center
Attn: Docket # OAR-2002-0038
US EPA Mailcode 6102(T)
1200 Pennsylvania Ave., NW
Washington, DC 20460

**RE: National Emission Standards for Hazardous Air Pollutants;
General Provisions; Proposed Rule**

To Whom it May Concern:

The Graphic Arts Coalition (GAC), comprising the Specialty Graphic Imaging Association, Printing Industries of America/Graphic Arts Technical Foundation, Flexographic Technical Foundation and the Gravure Association of America, submits these comments in response to the above referenced rulemaking (hereinafter referred to as the “Proposed Rule”)¹. While the GAC supports the Proposed Rule’s revisions and clarifications to the Clean Air Act’s (CAA) General Provisions, the GAC objects to EPA’s granting of the Proposed Rule’s underlying Petition for Reconsideration.

The GAC supports the US EPA’s decision to rely on the general provisions “General Duty” clause to minimize emissions during startup, shutdown and malfunction (SSM) periods. The MACT standards require facilities to develop and implement written SSM plans (SSMP) that describe general procedures for operating and maintaining the source during periods of SSM. The SSMP is a tool utilized by facilities specific to their operations in an attempt to comply with the General Duty Clause to minimize emissions during SSM periods.

We agree with the US EPA’s position that the provisions of the SSMP are not applicable requirements of a facility’s Title V operating permit. EPA inserted language into the General Provisions in order to clarify the intent – establishing that a source remains in compliance with regulations as long as it meets the current standard or complies with their SSMP. This parenthetical language was specifically inserted by EPA in order to make clear that the general duty to minimize emissions meant compliance with the actual emission standards or compliance with a properly drafted SSMP, even though compliance with the MACT standards themselves during a period of startup, shutdown, or malfunction

¹ 70 Federal Register 43992 (July 29, 2005).

may not be practicable. This is the correct interpretation, given the fact that the purpose of the SSMP is to minimize emissions when the source is experiencing an event during which compliance with the emission standards is not feasible – the duty imposed by the general duty clause. Without this language facilities may be subject to enforcement actions even though they have met their duty to minimize emissions during SSM periods under the General Duty Clause.

Given that the plan is in anticipation that certain events and malfunctions can have unanticipated outcomes, these plans must remain flexible and be changed in response to specific scenarios. The SSMP is meant to provide for minimizing emissions during an event where the source cannot maintain applicable emission standards. While the SSMP may in fact effectuate this outcome, it cannot ensure this outcome. Thus, it cannot be construed as an applicable requirement, but only as evidence as to whether a source met its obligation under the General Duty Clause. Similarly, a source could not use the plan itself as sole proof of compliance with the general duty to minimize emissions. Sources must report periods of SSM and reliance on the SSMP – following a deficient plan, for instance, would be evidence that a source does not have an adequate program to comply with the General Duty Clause. The GAC supports EPA's further clarification, retracting the provision that the SSMP must be implemented during periods of SSM, appropriately relying on the CAA's General Duty Clause as the applicable requirement for the minimization of emissions.

Further, the GAC supports reliance on CAA Section 114(a) for the submission of the SSMP. SSMPs are often lengthy documents with large amounts of cross-referencing to other source specific documents and processes. In addition, they generally contain material that is deemed to be confidential business information (CBI). Furthermore, as discussed, they are revised appropriately in response to SSM events, as well as process modifications, operational changes and a facility's ongoing responsibility to use good air pollution control practices. Submission of the original and even subsequently revised SSMP, on the off chance that some member of the public requested it, is unduly burdensome, costly, and places CBI information in jeopardy for no environmental gain. In fact, mandating that the plans and revisions be submitted to the permitting authority appears to undermine the Government Paperwork Elimination Act (GPEA),² which serves to protect stakeholders from regulations where there is insufficient justification for stringent and expensive provisions governing recordkeeping and reporting.

Lastly, mandating public submission of SSMPs poses a security risk to facilities and provides a disincentive for sites to specify sensitive operational information in their plans. As SSMPs are road maps on how to shut down a facility, they may also be road maps to obstructing plans for correction actions to address SSM events. Thus, in the hands of someone with wrongful intent, these plans pose a security risk that far outweighs any perceived benefit to making them public.

² Pub. L. No. 105-277, Title XVII (Oct. 21, 1998).

Addressing the information request on a case-by-case basis, as Section 114(c) allows – providing that EPA or an authorized permitting authority can request information such as an SSMP, whereby that information is then accessible by the public – provides the requisite access needed, while not further burdening facilities and diverting needed resources that could be used in compliance with the actual standards. Thus, the GAC supports EPA's removal of the provision in the final rule that requires a permitting authority to obtain an SSMP under certain conditions, denying NRDC's request to mandate unlimited access to SSMPs.

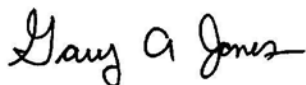
Further, the GAC supports EPA's decision to correct the language of the General Provisions, relieving a facility from recordkeeping requirements for startup and shutdown events, which do not exceed applicable standards. The inclusion in the current regulation of recordkeeping for these events, when reporting these events was already addressed in the final rule, was clearly inadvertent and unnecessary. EPA appropriately corrected this problem. GAC remains concerned, however, that the proposed language still requires this added reporting burden for malfunctions. This information is redundant given the requirements under 40 CFR 63.10(e)(3)(v) for reporting of malfunctions that result in an excess emissions. Thus, requiring a report of such under both provisions is duplicative and unnecessary.

On behalf of all listed organizations, the Graphic Arts Coalition appreciates the opportunity to submit these comments on the Proposed Rule. In advance, thank you for your consideration. If you have any questions or need further information, please do not hesitate to contact any of the representatives listed below.

Sincerely,



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